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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/520,087	03/07/2000	Valerie Anne Scott	10215-000022/US	1098
75304 7590 10/06/2009 Capitol City TechLaw, PLLC PO BOX 1210 VIENNA, VA 22183				
EXAMINER				
GUADALUPE, YARITZA				
ART UNIT		PAPER NUMBER		
2841				
MAIL DATE		DELIVERY MODE		
10/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/520,087

Applicant(s)

SCOTT ET AL.

Examiner

Yaritza Guadalupe-McCall

Art Unit

2841

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In response to Amendment filed June 17, 2009

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15 - 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paige (US 6,327,806) in view of Jorlov (US 5,189,555).

With respect to claim 15, Paige discloses an optical sight comprising an enclosure (30), a lens (1) located at one end of the light channel and having a partially reflective surface (3), a light source/laser diode (2) for emitting light toward said reflective surface to produce a light spot by direct imaging of the light diode on said reflecting surface and wherein the light spot is being superimposed on a target when sighting through the light the light channel (See Column 5, lines 51 – 65), a power supply/battery (BT1) for providing electric current, and an energizing circuit (ASIC 50) and a control means (See Columns 6 and 7, lines 54 – 67 and 1 – 56, respectively) for energizing the light diode and operable to apply a pulsating electric current

from said power source to said light diode source and adjusting the intensity of said light spot by pulse width modulation of said laser diode.

Paige does not disclose the tube as stated in claim 15. Paige does not disclose the manually operated switch as stated in claim 18.

In regards to claim 15: Paige discloses an optical sight comprising an enclosure having a base and an upstanding end. Jorlov discloses an optical sight contained in a tube (12) having a distal end and a proximal end and defining a light channel (See Figure 1), which protects the optical elements from external damages and prolongs the durability of the device. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Paige by replacing the enclosure with a tube as taught by Jorlov in order to protect the optical elements from external damages and prolongs the durability of the device and since the use of a tube, is considered to be nothing more than the use of one of numerous and well known alternate types of housings that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to protect the optical elements from external damages and prolongs the durability of the device as already suggested by Jorlov.

Regarding claim 16, the combination of Paige and Jorlov sets forth a control means (See Columns 6 and 7, lines 54 – 67 and 1 – 56, of Paige) as part of said energizing circuit provided for energizing the laser diode when a weapon to which said optical sight is mounted is to be used and for automatically reducing energization of the laser diode in dependence of a predetermined condition and for adjusting the intensity of the light spot and a pulse width modulation of the laser diode source.

In regards to claim 17, the combination of Paige and Jorlov teaches a manually operated switch included in said energizing circuit (122) for energizing the laser diode.

With regards to claim 18: Paige discloses an optical sight comprising an electronic circuit for controlling the operational conditions of the sight, however, the specification is silent as to the presence of a manual switch to do so. Jorlov discloses an optical sight comprising a battery switch unit (14) and a manually operated switch (See Column 3, lines 61 - 65) that allows the user to operate the device as needed. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a manually operated switch as taught by Jorlov to the optical sight device disclosed by Paige in order to increase the versatility of the device by allowing the user to operate the device as needed.

Regarding claim 19, the combination of Paige and Jorlov shows an optical sight wherein said control means (ASIC) includes a time-out circuit for deenergizing said laser diode a predetermined period after said laser diode has been energized (See Columns 6 and 7, lines 54 – 67 and 1 – 56, respectively).

With respect to claim 20, the combination of Paige and Jorlov sets forth an optical sight wherein said control means includes a time-out circuit for deenergizing said laser diode a predetermined period after said laser diode has been energized (See Columns 6 and 7, lines 54 – 67 and 1 – 56, respectively).

In regards to claim 21, the combination of Paige and Jorlov discloses an optical sight as in claim 18, wherein said control means includes a time-out circuit for deenergizing said laser diode a predetermined period after said laser diode has been energized (See Columns 6 and 7, lines 54 – 67 and 1 – 56, respectively).

Response to Arguments

3. Applicant's arguments, see pages 2 – 5 of remarks, filed June 17, 2000, with respect to the rejection(s) of claim(s) 15 - 21 under USC 102 and USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Paige and Jorlov.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe-McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-1984. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YGM
September 30, 2009

/Yaritza Guadalupe-McCall/
Primary Examiner, Art Unit 2841